

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Benne Singletary,)	
Plaintiff,)	
)	
)	
v.)	
)	Civil Action No. 06-315- JJF
C/O Gosnell, and C/O Waples,)	
Defendants.)	

DEFENDANTS' RESPONSE TO MOTION TO COMPEL

State Defendants Gosnell and Waples, by and through undersigned counsel hereby respond to Plaintiff's Motion to Compel [D.I. 15]:

1. Plaintiff has moved to compel production of certain medical records. However, to date, he has not filed any discovery requests. Therefore, a motion to compel is premature. Fed. R. Civ. P. 37(a).
2. In addition, State Defendants have provided Plaintiff with the requested medical records. *See* Exhibit A attached hereto.
3. Therefore, Plaintiff's Motion to Compel must be denied.

Wherefore, the State Defendants request that this Court enter an order denying Plaintiff's Motion to Compel.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters
Ophelia M. Waters, I. D. #3879
Deputy Attorney General
Carvel State Office Building
820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302) 577-8400
Counsel for State Defendants

Dated: October 5, 2006

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2006, I electronically filed *Defendants' Response to Motion to Compel* with the Clerk of Court using CM/ECF. I hereby certify that on October 5, 2006, I have mailed by United States Postal Service, the document to the following non-registered participant: Benne Singletary; SBI # 332365; Delaware Correctional Center; 1181 Paddock Road, Smyrna DE 19977.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters

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STATE OF DELAWARE

DEPARTMENT OF JUSTICE

CARL C. DANBERG

Attorney General



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KENT COUNTY

102 West Water Street
Dover, DE 19904
Criminal Division (302) 739-4211
Fax: (302) 739-6727
Civil Division (302) 739-7641
Fax: (302) 739-7652
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SUSSEX COUNTY

114 E. Market Street
Georgetown, DE 19947
(302) 856-5352
Fax: (302) 856-5369
TTY: (302) 856-2500

PLEASE REPLY TO:

October 3, 2006

Civil Division - New Castle County

Benne Singletary
SBI # 332365
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

Re: Singletary v. Kearney, et al.
C.A. No. 06-315-JJF

Dear Mr. Singletary:

This is in response to your Motion to Compel in the above-referenced matter. [D.I. 15]. You seek copies of your medical records pertaining to the incident underlying your lawsuit.

Your Motion to Compel is premature in that you had not filed a prior discovery request. However, I have enclosed copies of your medical records pertaining to injuries first treated on January 15, 2006.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Eileen Kelly".

Eileen Kelly for
Ophelia M. Waters
Deputy Attorney General

Enclosure